

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Elizabeth Bakalar	Team: Team # 5	CCRB Case #: 200201651	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/27/2002 6:15 AM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 8/27/2003	EO SOL 8/27/2003	
Date/Time CV Reported Wed, 03/06/2002 8:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 03/13/2002 12:05 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Michael Lipetri	01308	906647	GANG BN
2. DT3 Raymond Gong	02013	883090	GANG BN
3. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT2 Maurice Hare	05489	899327	GANG BN

Officer(s)	Allegation	Investigator Recommendation
A.SGT Michael Lipetri	Abuse: Sgt. Michael Lipetri entered and searched § 87(2)(b)	
B.SGT Michael Lipetri	Discourtesy: Sgt. Michael Lipetri spoke obscenely to § 87(2)(b)	
C.SGT Michael Lipetri	Abuse: Sgt. Michael Lipetri threatened to notify Administration for Children's Services.	
D.DT3 Raymond Gong	Discourtesy: Dt. Raymond Gong spoke obscenely to § 87(2)(b)	
E. Officers	Discourtesy: Officers spoke obscenely and/or rudely to § 87(2)(b)	

Synopsis

On February 27, 2002, a search warrant was executed at § 87(2)(b) § 87(2) the home of § 87(2)(b) § 87(2)(b) alleged that during the course of the search, money was taken from her, profanity was used by executing officers, and the ranking officer at the scene, Sgt. Michael Lipetri, referred to one of the apartment's occupants—§ 87(2)(b) as a “bitch.” The investigation revealed that the search of the premises was conducted under a valid warrant signed by a § 87(2) County Supreme Court judge. The § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b)

This case was forwarded to CCRB from IAB, the log of which (encl. 5a-b) states that on March 3, 2002, § 87(2)(b) called the command center to state that an unknown officer (later identified as Sgt. Michael Lipetri) used profane language towards her during a search warrant executed at her apartment at § 87(2)(b) in Brooklyn on February 27, 2002.

§ 87(2)(b) was interviewed by telephone on March 20, 2002 (encl. 7a-c). § 87(2)(b) was having surgery which precluded an in-person interview. § 87(2)(b) stated that on February 27, 2002, at approximately 6:15 a.m., she was at home asleep in her apartment at § 87(2)(b) § 87(2). Also in the apartment at this time were 8 other individuals—§ 87(2)(b)'s two sons, § 87(2)(b) and § 87(2)(b) her two daughters-in-law, § 87(2)(b) and § 87(2)(b)'s brother, § 87(2)(b) her nephew, § 87(2)(b) her granddaughter, § 87(2)(b) and a tenant, § 87(2)(b)

§ 87(2)(b) heard someone breaking down the door and got out of bed. When she got into the kitchen, she saw police officers—she was unsure how many—already entering her apartment. The officers told § 87(2)(b) several times, “Get the fuck on the floor!,” but she just stood there stunned. § 87(2)(b) asked the officers if they had a search warrant, and they said, “Do you think we would come in here without a search warrant?” § 87(2)(b) did not obtain the names and badge numbers of the officers who first entered her apartment, but stated that her nephew § 87(2)(b) who lives with § 87(2)(b) but was not home at the moment, may have gotten 3 badge numbers from them. The officers handcuffed everyone in the home except for § 87(2)(b). The officers threw § 87(2)(b) on the ground to handcuff him, but § 87(2)(b) kept saying, “I didn’t do nothing.” The officers did not physically injure anyone at the scene.

The officers then went into the back of the apartment, searched the rooms, and asked several people in the apartment where the guns were. § 87(2)(b) asked “What guns?” The officers then searched the apartment. § 87(2)(b) did not know what was found in her apartment, but stated that there may have been weed in her apartment that the officers left behind. When the search was over with, an officer who identified himself as “Sgt. Lepeche” (later identified as Sgt. Michael Lipetri) stated that he was the officer in charge and that he “decides who stays and who goes.” Everyone in the home was arrested except for § 87(2)(b) and § 87(2)(b). One of the officers (later identified as Sgt. Lipetri) asked one of § 87(2)(b)'s daughters-in-law where the guns were, and when she said she did not know, he said “The bitch is lying, the bitch is lying. She knows where the fucking guns is.” This officer also told § 87(2)(b) that he was “bitched out.” A third “Chinese” officer (later identified as Dt. Raymond Gong) was also present.

The officers were in § 87(2)(b)'s home for about two hours. § 87(2)(b) stated that there was \$1,000 dollars in her coat pocket that was missing after the search and that she still has not gotten back. This is in addition to \$1,500 vouchered from her sons at the precinct. § 87(2)(b) had never seen the officers before this day. The stolen property complaint was issued IAB Log #02-04699.

The undersigned spoke to § 87(2)(b) again on May 13, 2002 (Rolling IA, encl. 25a-c). In this conversation, § 87(2)(b) specified that she did not see—she only heard—the officer who used the word “bitch.”

Results of Investigation

CIVILIAN WITNESS/VICTIM STATEMENTS

§ 87(2)(b)
In his CCRB interview on April 10, 2002 (encl. 8a-c) § 87(2)(b) stated that on February 27, 2002, at approximately 6:15 a.m., he was at home at § 87(2)(b) in Brooklyn. Also in the home was § 87(2)(b)'s mother, § 87(2)(b) his brother, § 87(2)(b) his girlfriend, § 87(2)(b) his cousin, § 87(2)(b) s girlfriend § 87(2)(b) their § 87(2)(b) old daughter, § 87(2)(b) § 87(2)(b) and § 87(2)(b) s brother, § 87(2)(b)

§ 87(2)(b) stated that he heard “a whole bunch of banging,” and police knocked down his apartment door saying, “Get the ‘F’ on the floor, get the ‘F’ on the floor, NYPD Get the ‘F’ on the floor!” 7 or 8 officers wearing vests, shields, and helmets entered and made everyone lie on the beds on their stomachs. § 87(2)(b) could see these officers’ faces. § 87(2)(b) asked the police why they were there, but they put guns to everyone’s heads and said, “Shut the fuck up.” The police then handcuffed everyone except § 87(2)(b) and § 87(2)(b) took them into the living room, and began searching the entire apartment.

One of the detectives who stated his name was “LePetrocelli,” (later identified as Sgt. Michael Lipetri) stated that he was in charge and would take any questions. Another detective present identified himself as either “Murphy” or “Murray” (later identified as Dt. Robert Murphy). Sgt. Lipetri stated, “I’ll pick who goes and who stays.” § 87(2)(b) had some kind of conversation with a “Korean” detective (later identified as Dt. Raymond Gong) but § 87(2)(b) could not recall the substance of this conversation. § 87(2)(b) stated that the detectives were “playing around” putting badges on his brother’s neck. Sgt. Lipetri picked § 87(2)(b) and § 87(2)(b) to go to the 81st precinct. Prior to this, however, one of the detectives took § 87(2)(b) into the bathroom after he asked to pee. Sgt. Lipetri told this detective, “Check him and make sure he’s clean.” Sgt. Lipetri and this other detective had § 87(2)(b) face the toilet and squat down to show that he wasn’t hiding anything in his “drawers.” § 87(2)(b) stated that at the 81st precinct, Sgt. Lipetri dropped some drugs on the floor and told § 87(2)(b) that he was going to “put it on [them].” The officers stated that they recovered crack cocaine and a loaded weapon. § 87(2)(b) was only at the 81st precinct for a couple of minutes, and EMS took him to § 87(2)(b) Hospital because he is diabetic. Only § 87(2)(b) went to the hospital, and only because of his diabetes. § 87(2)(b) stated that in the apartment, he asked if he could take his injection but the officers would not allow him to at that time.

§ 87(2)(b)
In his CCRB interview on April 10, 2002 (encl. 9a-c) § 87(2)(b) stated that on February 27, 2002, at approximately 6:15 a.m., he was sleeping at § 87(2)(b) in Brooklyn. Also in the home at this time were § 87(2)(b) s sister, § 87(2)(b) whom he was visiting, § 87(2)(b) the § 87(2)(b) mother (later identified as § 87(2)(b) and § 87(2)(b) (later identified as § 87(2)(b) was asleep on the couch when he heard someone “pumping” the door. Police officers rushed in with guns drawn and told everybody to “get the fuck on the floor.” § 87(2)(b) stated that “a lot” of officers entered the apartment, and that he “could not even describe” how many entered. The officers flipped the couch cushions over and § 87(2)(b) was handcuffed, at which time the officers proceeded to the back of the apartment.

Everyone was brought out to the living room and instructed to sit down on the couch. Two detectives took § 87(2)(b) in a room by himself and uncuffed him. There, they asked him questions like, “What’s in this house?” § 87(2)(b) explained that he did not know because he did not live in the house, and was only there visiting his sister, § 87(2)(b). The officers made § 87(2)(b) empty his pockets, take his laces out of his shoes and then escorted him back to the living room. In the living room, the “head officer” who identified himself as “Mike Petrocelli” (later identified as Sgt. Mike Lipetri) was choosing people that

were going to go to the 81st precinct and others that would stay. Sgt. Lipetri chose § 87(2)(b) a girl whose name § 87(2)(b) does not know (later identified as § 87(2)(b) and § 87(2)(b) overheard some conversation between an officer and § 87(2)(b) and § 87(2)(b)'s mother. The mother was not in handcuffs, and the officer told her to "sit the fuck down." § 87(2)(b) does not remember anything about this officer, only that he was a male in plain clothes and not one of the aforementioned officers.

§ 87(2)(b) did not know what if anything, was recovered from the apartment, but stated that when he got to the 81st precinct, the officer taking his picture dropped some crack in a corner, called § 87(2)(b) out of the cell, and told him to stand next to it when he took his picture. § 87(2)(b) stated that no one was physically injured at the scene of the incident, but that § 87(2)(b) had to go to the hospital for his diabetes.

§ 87(2)(b) In his CCRB interview on April 10, 2002 (encl. 10a-c) § 87(2)(b) stated that on February 27, 2002, at approximately 6:15 a.m., he was visiting his aunt who resides at § 87(2)(b) § 87(2)(b) in Brooklyn. § 87(2)(b) was lying down, when all of a sudden he heard a "boom." § 87(2)(b) jumped up and ran into the back of the apartment. Also in the apartment at this time were § 87(2)(b)'s aunt, § 87(2)(b) his two cousins, § 87(2)(b) and § 87(2)(b)'s girlfriend's brother, § 87(2)(b) (later identified as § 87(2)(b)'s baby daughter (later identified as § 87(2)(b)'s girlfriend § 87(2)(b) (later identified as § 87(2)(b) and someone who rents a room in the house (later identified as § 87(2)(b).

Police officers rushed in and told everybody to get down on the floor. § 87(2)(b) "does not even know" how many officers entered. The officers were wearing helmets and shields, and all he saw were lights and guns. They told everyone, "get the fuck on the floor before we shoot." About 5 plain clothes detectives entered the apartment, three white males, one black male, and one "Chinese" male (later identified as Dt. Raymond Gong). The detectives had everyone sit in the living room, unhandcuffed, while they conducted a search of the apartment. § 87(2)(b) asked the officers what was going on and told them he didn't live there. The officers told him not to worry about it, that they were just doing a search and that he had nothing to do with it.

The search was conducted, and when they got to § 87(2)(b) they grabbed his sneakers that were sitting out in the living room and took them to the back. § 87(2)(b) recalls a white detective named "Mike," (later identified as Sgt. Michael Lipetri). § 87(2)(b) stated that Sgt. Lipetri was "very disrespectful," and called someone in the home, either § 87(2)(b) or another woman (later identified as § 87(2)(b) a "bitch," saying to her, "Bitch, you know where the drugs is at." Dt. Gong argued about slavery and what the Chinese people went through with § 87(2)(b)'s aunt. Sgt. Lipetri also told the individuals in the home "who was going and who was staying," meaning who would be arrested, and handcuffed those individuals. § 87(2)(b) and § 87(2)(b) were all handcuffed. The detectives came back to the front stating that they found drugs in his sneakers. § 87(2)(b) stated that the only drug he uses is marijuana, and the officers said they found 28 Zip Lock bags of it. § 87(2)(b) told them he knew nothing about drugs being in his sneakers. § 87(2)(b) admitted that he smokes marijuana and that the officers found marijuana, which they left in the apartment. They said, "We want the big stuff, we want the guns, where the guns at?" § 87(2)(b) stated he had no idea what they were talking about.

§ 87(2)(b) and the others were taken to the 81st precinct. As they were being taken out some of the detectives were "playing around," putting badges on people's necks and making comments about how good they looked in the badges. When § 87(2)(b) got to the 81st precinct, their pictures were taken. Some officers threw drugs on the floor and stated they were going to "put it on them." The officers stated they found a gun at the home. § 87(2)(b) had never seen any of the officers before, but alleged that some of his money was missing (IAB log#: 02-04699). The officers stated they were using this money for evidence.

§ 87(2)(b) In his CCRB interview on April 10, 2002 (encl. 11a-c) § 87(2)(b) stated that that on February 27, 2002, at approximately 6:15 a.m., he was at his home at § 87(2)(b) § 87(2)(b) in Brooklyn. § 87(2)(b)

§ 87(2)(b) was asleep in his bedroom and his mother, § 87(2)(b) was in the kitchen. Also in the home were § 87(2)(b)'s brother § 87(2)(b)'s girlfriend, § 87(2)(b) their daughter, § 87(2)(b) and § 87(2)(b) who rents a room in the apartment. § 87(2)(b) stated he heard banging on the door as though someone were trying to kick the door down. Several police officers wearing shields and helmets busted in and told § 87(2)(b) to get down on the ground, then grabbed a seat and told her to sit down.

Several plain clothes officers—one who stated his name was “Sgt. Detective Lipetri” (later identified as Sgt. Michael Lipetri) and one who looked “Chinese” (later identified as Dt. Raymond Gong) ran into § 87(2)(b)'s room and then into § 87(2)(b)'s room. § 87(2)(b) stated that he “could not really count” how many officers came into the home because many “different types” of officers kept coming and going. § 87(2)(b) was hiding in a closet while the search was going on. Two or three officers took § 87(2)(b) and Montennae § 87(2)(b) out of the room. § 87(2)(b) was on the floor of the bedroom, so the officers lifted him up by the T-shirt and handcuffed him. They had their guns and feet in his face and neck. § 87(2)(b) stated that these officers were in plain clothes. They asked § 87(2)(b) if he “had anything,” and § 87(2)(b) replied that he was in the bedroom with his daughter and would never “keep anything” around his child. Again the officers insisted, “Where the guns at? Where the drugs at?,” and again § 87(2)(b) repeated that he did not have anything except marijuana. The detectives stated they found cocaine and a gun. A total of 8 or 9 officers were at the apartment for about two hours, and there were “a lot” more in the hallway. § 87(2)(b) does not recall any conversation between § 87(2)(b) and any of the officers, but stated that Dt. Lipetri called § 87(2)(b) a “bitch” as they were getting her out of bed.

The officers took § 87(2)(b) and § 87(2)(b) out of the room, followed by the rest of the people in the home. They left the marijuana behind, and sat everyone down in the living room, handcuffed, while they continued to search the apartment. About 40 minutes to an hour later, the officers came out talking about “how they found this and they found that,” and § 87(2)(b) asked how they found anything. Dt. Gong told him to “shut the fuck up.” The officers took money out of § 87(2)(b)'s closet, some of which was part of § 87(2)(b)'s income tax check (IAB log #02-04699). One of the officers (later identified as Sgt. Lipetri) was picking people who were going to “go,” and handcuffed some of them. § 87(2)(b) and § 87(2)(b) were then handcuffed by Dt. Lipetri and a black detective, and brought to the 81st precinct. Everyone who was arrested was taken to the 81st precinct. Sgt. Lipetri dropped some drugs on the floor and tried to “pin it” on § 87(2)(b) and his family. § 87(2)(b) had never seen the officers before, but stated that he had money missing after the incident (IAB Log#02-04699).

§ 87(2)(b)
In a telephone conversation with the undersigned on May 13, 2002 (encl. 12) § 87(2)(b) stated that § 87(2)(b)'s allegation that an officer had called her a “bitch” was accurate. § 87(2)(b) stated that the officer who had called her a “bitch” was named “Lipetri” (later identified as Sgt. Michael Lipetri), and he told her, “I know you know where the guns is. If I find drugs in here then I’m taking you and your daughter to ACS.” Sgt. Lipetri told § 87(2)(b) that he didn’t believe “shit [she] says,” and stated in reference to her, “Fuckin’ bitch is lying. The bitch is lying.” Sgt. Lipetri left the room and another officer told § 87(2)(b) not to pay him any mind because he was just upset. § 87(2)(b) stated that she heard Sgt. Lipetri’s name because he announced it in the living room. § 87(2)(b) described Sgt. Lipetri as a white male, 5’5-6 and 180 lbs. with blonde hair and a hat.

OFFICER STATEMENTS

Sgt. Michael Lipetri

In his CCRB interview on May 2, 2002 (encl. 13a-d), Sgt. Michael Lipetri stated that on February 27, 2002, at approximately 6:15 a.m., he executed a search warrant at § 87(2)(b) in Brooklyn, the home of a woman whom he verbally identified as § 87(2)(b). Sgt. Lipetri referred to his tactical plan and the search warrant pre-execution plan and identified his partners as Lt. William Rogers, Dt. Robert Murphy, Dt. Maurice Hare, Dt. Michael Lanatra, Dt. Raymond Gong, Dt. Howard Distafano, Dt. Richard Wentz, Dt. Robert Zisel, Dt. Scott Casper, Dt. Robert Wagner, and Dt. Francisco Moncayo. Sgt. Lipetri was in plain clothes, assigned to an unmarked vehicle, the make and model of which he does not recall.

Sgt. Lipetri was the supervising officer on the search warrant. Emergency Services did the tactical entry into the location, and approximately five minutes later turned it over to Sgt. Lipetri. Sgt. Lipetri witnessed no portion of ESU's entry into the location, as he was outside the apartment at the time it was conducted. After ESU cleared the apartment, Sgt. Lipetri walked through the whole apartment, and observed approximately 9 individuals handcuffed inside. At this time, all the individuals were brought into the living room and sat down, while Sgt. Lipetri and the aforementioned detectives, specifically Dt. Murphy, Dt. Hare, Dt. Lanatra, and Dt. Moncayo—conducted a search of the location. Sgt. Lipetri specified that the officers were looking for guns and drugs at the location, and so looked in every possible location where this contraband might be secreted. Sgt. Lipetri stated that both guns and narcotics were found at the location.

Sgt. Lipetri stated that some of the individuals inside were upset and some were calm. Sgt. Lipetri explained the whole situation to everyone, especially § 87(2)(b) to whom he showed a copy of the search warrant. Sgt. Lipetri told § 87(2)(b) that they had found contraband inside the location and that technically everyone could get locked up. However, Sgt. Lipetri went out of his way and made the decision not to lock everyone up. He decided to arrest only the people who were in the bedrooms in which contraband was found. § 87(2)(b) who was in the living room at the time the detectives entered, was not arrested. Another female (later identified as § 87(2)(b)) a male (later identified as § 87(2)(b)) and a young child (later identified as Montannae § 87(2)(b)) who were in rooms without contraband were also not arrested, and their handcuffs were removed at the time this decision was made. Altogether five individuals (later identified as § 87(2)(b) and § 87(2)(b)) were arrested at the location. § 87(2)(b) told Sgt. Lipetri that her son was a diabetic but Sgt. Lipetri stated he could not administer the medicine to a prisoner in police custody. At the station house, however, Sgt. Lipetri directed two of his detectives to transport § 87(2)(b)'s son to the hospital for treatment of his diabetes.

Sgt. Lipetri stated that profanity was used “not one time” by himself or any other detective or officer at the location, and that neither he nor any other officer, including Dt. Gong, called anyone at the location a “bitch” or told anyone to “shut the fuck up.” Sgt. Lipetri stated that no one was strip-searched at the location. Sgt. Lipetri was at the location for approximately two hours.

Dt. Maurice Hare

In his CCRB interview on June 6, 2002 (encl. 14a-b), Dt. Maurice Hare stated that on February 27, 2002 at approximately 6:15 a.m., he helped execute a search warrant at § 87(2)(b) in Brooklyn. Dt. Hare looked at the warrant issued by § 87(2) County Supreme Court and verified that it was the same warrant he had assisted in executing. Dt. Hare referred to the search warrant pre-execution plan and identified the members of his field team as Lt. William Rogers, Dt. Robert Murphy, Sgt. Michael Lipetri, Dt. Michael Lanatra, Dt. Raymond Gong, Dt. Howard Distafano, Dt. Richard Wentz, Dt. Robert Zisel, Dt. Scott Casper, Dt. Robert Wagner, and Dt. Francisco Moncayo.

Dt. Hare was acting as the arresting officer on the search warrant, and was assigned to an unmarked vehicle the make and model of which he cannot recall. Dt. Hare was dressed in plain clothes—jeans, a T shirt, and an NYPD Raid jacket. Dt. Hare stated that he did not have his memo book at the time of his interview, but that he would fax the entries to the undersigned that afternoon.

During the execution of the warrant, emergency services secured the location followed by the entry of Dt. Hare's team. There were approximately 9 people inside the location, and Dt. Hare conducted a search of the location, during which time he recovered about an ounce of crack, a .22 caliber semi-automatic handgun, and \$1,528.00 USC. Dt. Hare placed five individuals under arrest—4 male blacks (later identified as § 87(2)(b), § 87(2)(b), and § 87(2)(b)) and 1 female black (later identified as § 87(2)(b)). 2 female blacks (later identified as § 87(2)(b) and § 87(2)(b)) and 1 male black (later identified as § 87(2)(b)) and 1 young baby (later identified as § 87(2)(b)) were not arrested. Dt. Hare stated that the individuals were “mostly calm,” but “a little upset” that the officers had entered their apartment so early in the morning. Dt. Hare stated that he did not overhear any conversations between officers and civilians at the location, and that all the individuals were handcuffed except for the § 87(2)(b) and § 87(2)(b). None of these individuals were uncooperative with

the officers. Dt. Hare stated that everyone was uncuffed at one point to put their clothes on, but that § 87(2)(b) and § 87(2)(b) were not handcuffed at any time.

Sgt. Lipetri was the overall search supervisor, running around from room to room and assisting in the search. Dt. Hare stated that Sgt. Lipetri did not refer to any woman at the location as a “bitch,” and no profanity was used by an officer at any time at the location to gain anyone’s compliance or for any other reason

Dt. Raymond Gong

In his CCRB interview on June 25, 2002 (encl. 15a-c), Dt. Raymond Gong stated that on February 27, 2002, at approximately 6:15 a.m., he was in plain clothes and a police raid jacket, working hallway security on a search warrant being conducted at § 87(2)(b) in Brooklyn. Dt. Gong was assigned to an unmarked vehicle that day, the make and model of which he cannot recall. Dt. Gong looked at the tactical plan for this warrant and confirmed that the team listed there was the same team he was working with. Dt. Gong has a vague recollection of this incident. He recalls that there was an occupant in the home (later identified as § 87(2)(b) who was diabetic, and who was rendered immediate medical aid. Dt. Gong also recalls that at the 75th precinct station house, one of the arrested individuals threw some crack across the floor of a holding cell in an attempt to discard it, although Dt. Gong stated he did not personally witness the alleged perpetrator throw the drugs. These drugs were recovered and vouchered separately from the rest.

Dt. Gong’s role in the warrant was hallway security. Working hallway security entails the prevention of escape of any individuals in the apartment via the hallway, and to prevent unauthorized persons from entering the location. Emergency Services cleared the location in a matter of minutes, although Dt. Gong does not recall if he actually witnessed their entry. When ESU cleared the location for the detectives, they entered to find several occupants—at least three women (later identified as § 87(2)(b) and § 87(2)(b) and four men (later identified as § 87(2)(b) and § 87(2)(b). The general demeanor of these occupants was “agitated.” Everyone appeared to be handcuffed to Dt. Gong, although one older female (later identified as § 87(2)(b) who was holding a child may not have been handcuffed.

Sgt. Michael Lipetri was the supervisor of the search, and all questions and comments from civilians are by procedure directed to him. Sgt. Lipetri’s role is to supervise the search and see that it is done properly. The apartment was searched from one bedroom to the other systematically. Dt. Gong had no conversation with any occupants of the home, because he had hallway security and did not speak to anyone inside. Dt. Gong stated that no profanity was used by any officer within the home, and although he was out of earshot of Sgt. Lipetri most of the time, did not at any time hear him refer to any woman in the home as a “bitch.” Sgt. Lipetri showed the warrant to the individuals, spoke to them one at a time, and gave them an opportunity to cooperate.

Dt. Gong recalls that contraband, namely ziplock bags of crack, and “a couple” of guns were recovered. At least one female and four men were arrested, but Dt. Gong cannot recall if he transported these prisoners.

POLICE RECORDS

Search Warrant

A search warrant (encl. 16) signed by § 87(2)(b) County Supreme Court was issued to Dt. Robert Murphy of the Brooklyn North Gang Unit. The warrant, signed on § 87(2)(b), states that the executing officers are “commanded, at any time between 6 a.m. and 9 p.m., without prior notice of purpose or authority, this request being based upon the type of evidence to be seized, namely controlled substances, which are easily disposed of, to search: § 87(2)(b) at § 87(2)(b) § 87(2)(b) County, Brooklyn, New York, and of any person present who may be found to have such property in his possession or under his control or to whom such property may have been delivered to or for.”

Search Warrant Pre-Execution Plan

A search warrant pre-execution plan dated February 20, 2002 (encl. 18a-b) lists the team members and their roles in the warrant. The warrant was obtained by Dt. Murphy, Lt. Rogers was the overall supervisors and

Sgt. Lipetri was the search supervisor. Dt. Murphy and Dt. Hare were arresting officers, Dt. Lanatra and Dt. Gong were hallway security, Dt. Distefano and Dt. Wentz were assigned to front security and the hospital car, and Dts. Zisel, Casper, Wagner, and Moncayo were assigned rear security. Potential hazards at the location are listed as firearms, destruction of evidence and flight of subjects.

Arrest Reports

On Line Booking Sheets (OLBS arrest reports) (encl. 20a-i) were prepared for § 87(2)(b) and an individual listed as § 87(2)(b). The arrest reports all state that at the time and place of occurrence, the named defendant plus four others were found to be in possession of narcotics and a firearm during the execution of a search warrant.

Property Vouchers

Property Vouchers (encl. 21a-h) filed pursuant to arrests at § 87(2)(b) include 1 silver model 22 caliber long rifle, 1 silver magazine from the rifle, and 6 live cartridges. Further items vouchered include 1 clear plastic bag containing large amount of rock-like substance (alleged crack), one clear plastic bag containing four zip-log bags of alleged crack, and one clear zip-lock bag containing twenty-eight small, clear zip-lock bags of alleged crack. A total of \$1,528.00 in United States Currency plus various sundries were also vouchered.

§ 87(2)(b)

OATH CASE LAW

In OATH case *PD vs. Miller* (encl. 2), the judge ruled that although some profane statements made for emphasis as a means of ensuring a citizen's cooperation with the police are not misconduct, the use of the word "bitch" was misconduct because it did not contribute to any law enforcement objective and was intended as an insult rather than a means to convey urgency.

Conclusions and Recommendations

Allegation A): Abuse of Authority: Sgt. Michael Lipetri entered and searched § 87(2)(b)

§ 87(2)

Allegation B): Discourtesy: Sgt. Michael Lipetri spoke obscenely to § 87(2)(b)

Allegation C): Abuse of Authority: Sgt. Michael Lipetri threatened to notify Administration for Children's Services.

Allegation D): Discourtesy: Dt. Raymond Gong spoke obscenely to § 87(2)(b)

Allegation E): Discourtesy: Officers spoke obscenely to § 87(2)(b)

Allegation A

Documentary evidence—namely a search warrant signed by § 87(2)(b) County Supreme Court—was issued to Dt. Robert Murphy of the Brooklyn North Gang Unit and commanded him and his team to enter and search § 87(2)(b) in Brooklyn. The search warrant was valid at the time of entry. It is clear from this document that Sgt. Lipetri, the ranking officer in charge of the immediate search of the location, was authorized to enter and conduct a full search of the apartment and any persons therein. § 87(2)(g)

Allegation B

Several of the civilians interviewed stated that an officer called § 87(2)(b) a “bitch.” § 87(2)(b) stated that she overheard—but did not see—an officer refer to § 87(2)(b) in this manner. § 87(2)(b) stated that she heard this officer say, “The bitch is lying, the bitch is lying. She knows where the fucking guns is.” § 87(2)(b) stated that Sgt. Lipetri was “very disrespectful,” and called someone in the home, either § 87(2)(b) or another woman (later identified as § 87(2)(b) a “bitch,” saying to her, “Bitch, you know where the drugs is at.” § 87(2)(b) stated that Dt. Lipetri called § 87(2)(b) a “bitch” as they were getting her out of bed, and § 87(2)(b) told the undersigned that Dt. Lipetri, whose name she learned when he announced himself, told her, “I know you know where the guns is” and stated in reference to her, “Fuckin’ bitch is lying. The bitch is lying.”

Sgt. Lipetri stated that profanity was used “not one time” by himself or any other detective or officer at the location, and that neither he nor any other officer present called anyone at the location a “bitch.”

Despite Sgt. Lipetri’s statement to the contrary, the preponderance of the evidence indicates that Sgt. Lipetri did in fact refer to § 87(2)(b) as a “bitch.” Four of the people in the home attest to these comments and provide similar accounts of them. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Sgt. Lipetri further stated that some of the individuals in the home were upset and that some were calm, but that he picked and chose which individuals would remain in handcuffs and which would be released. § 87(2)(b) was one of those released from handcuffs and she was not arrested. Sgt. Lipetri stated that profanity was not used “one time” in order to effect the warrant and pursuant arrests. Nonetheless, the preponderance indicates that in fact Sgt. Lipetri did in fact call § 87(2)(b) a “bitch” capriciously, and without intent to gain § 87(2)(b)’s compliance pursuant to his own personal safety. This was found to be misconduct in OATH case *PD vs. Miller*. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation C

§ 87(2)(b) stated that Sgt. Lipetri told her that if he found drugs in her room he was going to take her and her daughter to ACS. This was a statement of fact on the part of the sergeant, as opposed to an empty threat meant to elicit cooperation from § 87(2)(b). Patrol Guide Procedure 215-03 (encl. 1) cites section 1012 of the Family Court Act which in turn defines an abused child as “a child less than eighteen years of age whose parent...creates or allows to be created, a substantial risk of physical injury to such child.” This procedure allows for the involvement of ACS and the removal of children from the home in such cases. Both narcotics and firearms were recovered at § 87(2)(b) thus creating such “substantial risk.” § 87(2)(g)

§ 87(2)(b)

Allegation D

§ 87(2)(b) stated that a “Chinese officer” told him to “shut the fuck up” in the course of executing the search warrant at his home. Dt. Gong was the only Chinese officer present during the execution of the warrant. Dt. Gong stated that he had no conversation with any occupants of the home, because he was working in hallway security and did not speak to anyone inside. Dt. Gong stated that no profanity was used by any officer within the home, that he could recollect. There are no independent witnesses to corroborate either side of this allegation, or substantive means to reach an affirmative finding on whether or not Dt. Gong did in fact use profanity—justified or not—throughout the duration of the incident. § 87(2)(g)

§ 87(2)(b)

Allegation E

§ 87(2)(b) alleged that the officers who first entered her apartment told her to “get the fuck on the floor.” Using profanity to gain compliance during the execution of a search warrant is standard practice by members of Emergency Services Squads, and § 87(2)(b) could not attribute these words to one officer in particular. Use of profanity in this instance falls under the umbrella of “urgency” and a direct “law enforcement objective” of compliance as stipulated in *PD vs. Miller*. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: